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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,063	03/31/2005	Philippe Meunier-Beillard	BE02 0027 US	6267

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NXP, B.V.
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M/S41-SJ
1109 MCKAY DRIVE
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EXAMINER

ESTRADA, MICHELLE

ART UNIT	PAPER NUMBER
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2823

NOTIFICATION DATE	DELIVERY MODE
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05/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brabant et al. (2003/0036268).

3. Brabant et al. discloses depositing an epitaxial layer based on Group IV elements a silicon substrate by Chemical Vapor Deposition using source gases ([0028]), and including employing nitrogen as a carrier gas ([0049]), wherein the epitaxial layer comprises a SiGe epitaxial layer ([0028]) and wherein the method is carried out at a temperature between 550 °C and 800 °C, which overlaps with the recited range of 500 °C and 600 °C. Therefore, since the same materials are treated in the same manner, it would be obvious that the same result as that of the present invention would be obtained.

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Re claim 18, Brababt et al. does not disclose wherein the source gases include SiH₄ and GeH₄ ([0051] and [0052]).

Allowable Subject Matter

4. Claims 5, 7, 19, 21 and 22 are allowed.

Response to Arguments

5. Applicant's arguments filed 2/5/09 have been fully considered but they are not persuasive.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the argued growth rate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The process suggested by the reference alone or in combination with the remaining references is encompassed by the instant claims.

7. Applicant argues that the published applications do not evidence a 102 (b) rejection. However, the references were used under a 103(a) rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Estrada whose telephone number is 571-272-1858. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Estrada/
Primary Examiner, Art Unit 2823

ME
May 22, 2009